IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 25 OF 2006
IN
WRIT PETITION NO. 909 OF 2003

Sarvodaya Sahakari Sakhar ... Applicants

Versus

The Union of India and Ors. Respondents

Mr. T.S. Ingale for Applicants.

Mr. Y.S. Bhate for Respondent Nos. 1 to 3.

Mrs. M.P. Thakur, A.G.P. for R. Nos. 4 and 5.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD,JJ.
DATED : FEBRUARY 03, 2006

P.C.

. The Petitioner earlier had sought interim relief in the present petition and the learned Division Bench of this court by order dated 7.2.2003 in Paragraph No. 7 had permitted the Petitioner to dispose of 50% of the sugar after deducting the quantum of levy sugar on the conditions as set out therein. In respect of the remaining stock, the respondents were directed to take action within the period of eight weeks from the date of the order.

. Subsequent to that order, Respondents by their order dated 23.12.2003 have issued eligibility certificate under the incentive scheme. The eligibility certificate bearing No. 97 of 20 sets out that for the period of five years incentive from the year 2002-03 upto the year 2006-07, the Petitioner's eligibility of incentive free sale quantum shall be applicable on the annual production of sugar in the sugar season subject to annual selling of 50,000 tonnes. In other words, for each of the seasons, the Petitioner can sell as incentive free sale quantum upto 50,000 tonnes. From the arguments advanced at the bar and as pointed out to us, it appears that the maximum production of the Petitioners is around 3,000/- tonnes per annum. In the light of that, it will be open to the Petitioners to dispose of the sugar based on the eligibility certificate dated 23.12.2003.

. The grievance of the applicant is that though they have received orders for release of quantity of 40,847 quintals, they could only despatch 4045 quintals and could not despatch 36,802 quintals for

the lack of transportation as set out in their correspondence addressed to the Chief Director (Sugar) Government of India.

. Before us nothing is pointed out as to why the Petitioner cannot sell the entire quantity of sugar which thy have manufactured for the seasons, bearing in mind the eligibility certificate dated 23.12.2003. In the light of that the following order :

. The respondents are directed to issue to Petitioners release orders upto 50,000 tonnes for the years for which they are entitled as free entitlement within 15 days of the Petitioner making an application as required under law. With the above directions, Application stands disposed of.

(F.I. REBELLO,J.)

(DR. D.Y. CHANDRACHUD,J.)